S.B. Civil Writ Petition No.5329/2004
(Managing Director, JCT Mills Ltd. & Anr.
V/s
Nanak Chand Arora)

Date of Order : 7/12/2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. Rajesh Joshi,for the petitioner/s

Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order of the Court of District Judge, Sriganganagar, by which the respondent No.1-plaintiff's application for amendment of the plaint was allowed by the trial court by order dated 6.11.2004.

According to the learned counsel for the petitioner, the respondent No.1 filed one suit for mandatory injunction for restoration of electric supply to the respondent No.1's premises. The temporary injunction application in that suit was dismissed by the trial court on 25.9.2004. After dismissal of the injunction application, the petitioner submitted an application in his another suit which is Civil Original Suit No. 206/2004 seeking amendment of the plaint and sought relief of same mandatory injunction which he claimed in his earlier suit and in which the respondent No.1's application for grant of temporary injunction was dismissed by the

trial court. According to the learned counsel for the petitioner when one suit is pending, the petitioner should not have been allowed to amend the suit by incorporating the same relief which he sought in another suit.

I considered the submissions of the learned counsel for the petitioner is true that the respondent No.1 filed the suit for injunction and restoration of supply of the electricity and temporary injunction was refused. But by the impugned order the trial court merely permitted the amendment in the plaint of the another suit of the plaintiff where the respondent No.1 is seeking decree of declaration that he be declared as in service employee of the petitioner and he is entitled for all service benefits.

Therefore, the trial court by order dated 6.11.2004 has not decided any of the rights of the parties and only permitted the respondent No.1 to take a ground for seeking relief in the suit. Even if order under challenge is erroneous in law even then the petitioner is not going to suffer because nature of amendment permitted by the court below and he will have a right to raise all objections about the maintainability of the suit for this relief. Therefore, this Court is not inclined to entertain the writ petition to challenge the order of the trial

court by which the amendment in the plaint was allowed.

Hence, this writ petition is dismissed.

(PRAKASH TATIA)J.

Rm/